

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

CHRISTOPHER S. MYERS,)	
)	
Plaintiff,)	8:05CV367
)	
v.)	
)	
PIETZ TRUCKING, INC.,)	ORDER
)	
Defendant.)	
_____)	

This matter is before the Court on plaintiff's motion (Filing No. 14) asking the Court to reconsider its order designating North Platte, Nebraska, as the place of trial. That order (Filing No. 11) was entered on September 13, 2005, granting defendant's motion (Filing No. 6) to transfer the case to North Platte for trial.

Defendant's motion was filed on September 1, 2005. Pursuant to Federal Rule of Civil Procedure 6 and NeCivR 6.1(b) and 7.1(b)(1)(B), plaintiff had until September 14, 2005, to file a response, which it did on September 13, 2005 (Filing Nos. 12 and 13) after the Court had entered its order (Filing No. 11). It is clear the Court's order was premature, and it will now be set aside and the Court will reconsider the motion of defendant to designate North Platte as the place of trial.

The Court has reviewed again the motion and supporting affidavits filed by defendant and has reviewed the brief and evidentiary showing of the plaintiff. It is customary to give plaintiff's choice of site for trial great weight. This is not a venue issue as venue is the State of Nebraska. Considering the

respective showings, the Court concludes that the convenience of the plaintiff requires designating Omaha, while the convenience of the defendant would require designating North Platte. With all things being equal, plaintiff's choice carries the day, and defendant's motion to designate North Platte will be denied. Accordingly,

IT IS ORDERED:

1) This Court's order (Filing No. 11) is set aside.

2) Plaintiff's motion for reconsideration is granted; trial of this matter will be in Omaha, Nebraska.

DATED this 29th day of September, 2005.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court